

DEPARTMENT OF ADMINISTRATIVE SERVICES

INTERNAL POLICIES AND PROCEDURES

Subj: GRATUITIES, GIFTS AND SOLICITATIONS

Date: August 14, 2002

Ref: (a) Utah Code Title 67 Chapter 16
(b) DHRM Rule R477-9-3

Purpose:

To reiterate standards of conduct as identified in references (a) and (b) regarding the receipt of gifts or gratuities and to provide additional guidance for employees within the Department of Administrative Services. Reference (a) is the Ethics chapter of the Utah Code while reference (b) deals with outside activities and employee conduct.

This policy provides guidance to employees in areas where there may be actual or potential conflicts of interest with the objective to preclude impropriety or the appearance of impropriety. Even a remote semblance of impropriety may be construed as an employee using their state position for private gain. While no policy can address every issue or concern, good judgment and openness in all dealings are the basic tenets that must be followed.

Policy:

1. As per the provisions of section 5 of reference (a), no employee within the Department of Administrative Services may knowingly receive, accept, take, seek, or solicit, directly or indirectly for themselves or another a gift of substantial value or of a substantial economic benefit tantamount to a gift if:

a. it tends to influence the employee in the discharge of official duties; or

b. the employee has recently been, or is now, or in the near future may be involved in an governmental action directly affecting the donor or lender, unless a disclosure of the gift, compensation, or loan and other relevant information has been made in the manner provided in Section 67-16-6.

2. The requirements identified in this law do not apply to the following:

a. an occasional non-pecuniary gift, having a value not in excess of \$50;

b. an award publicly presented in recognition of public services;

c. any bona fide loan made in the ordinary course of business by an institution authorized by the laws of this state or any other state to engage in making such loans; or

d. a political campaign contribution if the contribution is actually used in a political campaign of the recipient public officer or public employee.

3. As per section 6 of reference (a), no public officer or public employee shall receive or agree to receive compensation for assisting any person or business entity in any transaction involving an agency unless the public officer or public employee files with the head of his own agency, the head of the agency with which the transaction is being conducted, and the state attorney general a sworn written statement giving the following information:

a. the name and address of the public officer or public employee involved;

b. the name of the public officer's or public employee's agency;

c. the name and address of the person or business entity being or to be so assisted;

d. a brief description of the transaction as to which service is rendered or is to be rendered and of the nature of the service performed or to be performed.

This statement shall be filed within ten days after the date of any agreement between the public officer or public employee and the person or business entity being assisted or the receipt of compensation, whichever is earlier. The statement is public information and shall be available for examination by the public. The filing of the statement is for public notice only and does not authorize, justify or condone conflicts of interest.

4. Subsections (2) and (3) of reference (b) provide general amplifying guidance. The provisions of those paragraphs are reprinted below:

R477-9-3 (2). Employees shall not use their position or any influence, power, authority or confidential information they receive in that position, or state time, equipment, property, or supplies for private gain.

R477-9-3 (3). Employees shall not receive outside compensation for performing state duties, except for the following:

a. awards for meritorious public contribution;

b. honoraria or expenses paid for papers, speeches, or appearances on an employee's own time with the approval of agency management, which are not compensated by the state or prohibited by rule;

c. usual social amenities, ceremonial gifts, or insubstantial advertising gifts.

5. In addition to the requirements of the preceding paragraphs, the following additional guidance is provided:

a. employees within the Department of Administrative Services shall notify their division director of any offered gratuity or the acceptance of any infrequent gift as authorized by paragraph 2(a) of this policy. Employees receiving social amenities, ceremonial gifts, or insubstantial advertising gifts do not need to notify their division directors.

b. an employee that is now, or in the near future is likely to be involved in any procurement or other governmental action directly affecting the donor or lender, shall not accept a gratuity of any type.

c. when offered gratuities include travel in addition to other items, the state shall normally pay the travel expenses (e.g., a vendor offering to host one or more employees to an out-of-state products show at no cost to the state).

d. employees must take leave to participate in any vendor-sponsored, non-work-related activity such as a golf tournament. However, activities must comply with the provisions of this policy i.e. value cannot exceed \$50.

e. unless granted authorization by the executive director, employees shall not solicit gifts or donations of any type or value from any source for any occasion e.g. division parties and award ceremonies.

6. Employees who are governed by more stringent standards as defined in law or division policy, such as the Procurement Code (Utah Code Section 63-56-72), shall abide by the more stringent standard.